

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM JOHN DIEHL,

Defendant.

Case No. CR05-5238RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion to Compel Documents from Government and Former Counsel [Dkt. #77]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks to compel "full release" of all discovery materials from the government and apparently requests to be provided with his attorneys' work product in order to "properly prepare for his direct appeal and/or motion under 28 U.S.C. §2255" Mr. Diehl pled guilty to Transportation of a Minor with Intent to Engage in Illegal Sexual Activity in violation of 18 U.S.C. §2423(a) and was sentenced to 120 months in custody. The case, and therefore the discovery, also included the dissemination of child pornography. The discovery was subject to a protective order which provided that the defendant shall not have access to the child pornography. [Dkt. #21].

The docket reflects that the Ninth Circuit entered an Order permitting Mr. Diehl to file a supplemental pro se brief, and directing that the brief be filed on or before September 20, 2007. [Dkt. #75]. That date has

1 since passed and thus defendant does not require the discovery in order to prepare for his direct appeal.
2 Furthermore, because Mr. Diehl is on direct appeal, he may not file a motion under 28 U.S.C. §2255 until that
3 direct appeal is completed.

4 The Court also notes that under the terms of the protective order and pursuant to 18 U.S.C. §3509,
5 the defendant will not be given access to any material deemed to be child pornography even if he files a proper
6 motion under 28 U.S.C. §2255. Therefore, defendant's motion [Dkt. #77] is **DENIED**.

7 **IT IS SO ORDERED.**

8 Dated this 7th day of December, 2007.

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11 RONALD B. LEIGHTON
12 UNITED STATES DISTRICT JUDGE
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